The grand Plea of Lievt. Col. *John Lilburne*,

Prerogative Priſoner in the Tower of *London*, againſt the preſent tyrannicall Houſe of Lords, which he delivered before an open Committee of the Houſe of Commons, the twenteth day of *October*, 1647. Where Mr. *John Maynard* the Lawyer had the Chaire.

Unto which is annexed his Propoſition of the 2. *Oct.* 1647. to argue his caſe in point of Law, with any 40. Lawyers the Lords ſhall chuſe.

1845, May 1. Gift of Obadiah Rich, of London.

Mr. *Maynard*,

I Have undertaken a mighty hard and difficult worke, to conteſt with ſo many powerfull and great men of this Kingdome, conjoyned in a Houſe of Peers, (and thereby claiming the exerciſe of a greater power, then any other Court of record in *England*) for the Lawes and liberties thereof, but when I read over the 29. Chap. *of Magna Charta, and the Petition of right, and other the good, and juſt knowne, and declared Laws of this kingdome, made for the Common good, benefit, profit, protection, and preſervation of the lives, liberties, and eſtates of all the free* Denizons *thereof*, and ſeriouſly conſider of them, and compare the preſent houſe of Lords, violent and irregular practiſes and dealings with me thereunto, it makes my worke to ſeem very facile, pleaſant, and eaſie to me: And therefore for the clearing up of the juſtneſſe of my preſent Conteſt with the preſent houſe of Lords, I ſhall deſire from you a little liberty to ſpeake a few words unto two things, before I come to my maine Plea.

And in the firſt place, I intreate a little libertie to make ſome ſhort repetitions of my deſires unto the Committee that examined my buſineſſe now about 12. Monethes agoe, *where* Mr. *Martin had the Chaire*; who I know cannot but remember that at my firſt pleading of my cauſe before him, and the reſt of that Committee, in the Inner-Court of Wards; *I made it my earneſt deſire unto them, that they would deale fairelier and juſtlier with the Lords then they had dealt with me, that ſo they might not juſtly complaine of them for iniuſtice, as I had to juſt cauſe to complain of the* Lords *themſelves, & ſeeing that it was not the manner or law of the Heathen, Pagan, Romans to condemn any man before that he which is accuſed hath the accuſer face to face, & have liberty to anſwer for himſelf, concerning the crime laid againſt him.* Acts 25. 16. *and therfore I earneſtly preſſed that the* Lords *might be ſummoned to ſend their Lawyers or Proctors to the Committee to plead for them, and that they might not be condemned unheard, but I was preſt at preſent* to ſpeake to my own buſineſſe, whereupon I deſired them to give me leave to ſpeake to two things, and *the firſt was to matter of law*, and the ſecond to matter of fact.

And

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And first to matter of Law, I *desired liberty to lay before them my grounds, reasons, and arguments* (and to read my law proofes) *which did fully convince my understanding that the Lords originally, had no iurisdiction over any Commoner of England what ever, either to try him or passe judgement against him, either for life, limb, liberty or estate.* But Mr. *Martin* told me, that for his part he was as fully satisfied in the point as my selfe, and so he thought was all the whole Committee, and thereupon addressed himselfe unto them, to see whether they were or no. *And they all unanimously declared their satisfaction, without any one then scrupling, and therefore commanded me to goe on to matter of fact, which I did and laid down this assertion then before them.*

That in case the Lords had had iurisdiction over me (which I then and still do deny) *yet I did aver and would by particulars make it good,* that there was not the least legall formallitie in any of their Proceedings with me, (and therefore also void in law) summoning me before any charge, impeachment, or indictment was filed against me, *which was and is expresly against the fundamentall common law of the land, and also against the* 29. *chap. of Magna Charta, and the Statutes of the* 5. *E.* 3. 9. *and* 25. *E.* 3. 4. *and* 28. *E.* 3. 3. *and* 37. *E.* 3. 18. *and* 42 *E.* 3. 3. *Which Statutes are the true expositors of the* 29. *chap. of Magna Charta,* and what is meant by *lex terra* there mentioned, which is as all those Statutes shew, *That no man be put to answer without presentment before iustices or matter of record, or by due processe or writ originall, according to the old law of the land, and if any thing from henceforth be done to the contrary, it shall be void in law and holden for error, all & every of which Statutes are confirmed by the Petition of right, in the* 3. *year of the present King, and in the act made the* 17. *of the King, this present Parliament, for the abolishing the Star Chamber.*

I then further went on, to shew multitudes of errors in all their proceedings with me, and by speciall order and command of that Committee, the 6. of *Novemb.* 1646. *brought in my said plea in writing under my hand, and the* 9. *of Novemb.* 1646. *Delivered it to the hands of Col. Hen. Martin,* and since caused it to be printed and intituled an *Annotamy of the Lords tyranny,* to which plea in point of fact I desire to referre my selfe.

2. And secondly, I desire liberty by way of introduction to my plea to state the occasions of my being summoned before the Lords barre in *June* 1646. which were these, that after my deliverance out of *Oxford* Castle, I was by L. Gen. *Cromwells* meanes made Major to Col. *Edw. King,* then Governour of *Boston.* &c. under the Earle of *Manchester* which said *Edw. King* proved unfaithfull to his trust, and committed besides divers transcendent inormities and misdemeanors, for *which by the rules of warre* (which both he and I was under) *he ought to have lost his life,* of which I according to my duty and trust re[quired] me *complained to my Generall and Lievt. Gen. Cromwell, and laboured h[im]*

taine a tryall for his life before a Councell of Warre. But as I conceive by reaſon of the great intereſt of *Kings* two *Chaplaines*, *Mr Lee, and Mr. Garter*, with the Earles two Chaplaines, Mr. *Aſh* and Mr. *Good*, nor the Committee of *Lincolnſhire*, nor the Magiſtrates of *Boſton* (who then were perſecutors of him as well as my ſelfe) could get no effectuall juſtice upon him, ſaving the caſheering him of all, or moſt of his great and profitable commands. Whereupon in *Auguſt*, 1644. *Mr. Muſſenden, Mr. Wolley, and divers of the Committee of Lincolnſhire, preferred* 12. *Articles to the houſe of Commons againſt the aforeſaid Coll. Edward King in the* 4. & 12. *articles of which they expreſſely accuſe him for betraying Crowland and Grantham into the hands of the profeſſed and declared enemies* of the Parliament, and my ſelfe in diſcharge of my duty to my Country, and the Parliament being an active proſecutor of the ſaid Col. *Edward King* to bring him to a tryall in the Houſe of Commons upon the ſaid impeachment, whereupon by way of diverſion and revenge to ſave his own head upon his ſhoulders, he malicioufly and deſignedly confederates with Dr. *Baſtwick*, and upon the 12. of *July*. 1645. joyntly under both their hands, ſend into the Speaker a moſt malicious, falſe note by way of accuſation againſt me, about 6000*l*. that then was ſaid to be ſent to *Oxford* by the Speaker, whereupon without being called into the Houſe (though then at the doore) either to juſtifie or deny the charge fixed upon me. I was by vote of the Houſe committed a priſoner to the Serjeant at Armes, and from thence by Mr. *Lawrence Whitaker*, was ſent to *Newgate* and being there, there was an expreſſe order of the Houſe of Commons (for any thing I know to the contrary by Col. *King* procured) for the arreigning of me at Newgate Seſſions, where I was acquitted by proclamation as guiltleſſe of any crime, and afterward by the certifying thereof by Mr. *Glyn*, Recorder of *London* to the Houſe of Commons, I was by vote thereof the 14. of *Octob.* 1645. freely and cleerly diſcharged.

But *King* being conſcious of his own guilt, and judging himſelfe not ſafe nor long lived, unleſſe he cruſhed me to peeces, and therefore moſt malicioufly, and unjuſtly upon the 14. of *April*, 1646. contrary to the juſt priviledge of Parliament and the Common law of England, cauſed me at *Weſtminſter* as I was following my buſineſſe depending (and then in agitation) before the houſe of Commons (by whom I ought therefore in juſtice and law to have been protected, comming, ſtaying, and going, till I had beeen diſpatched by them) to be arreſted by the Bayliffe thereof into the Court of Common Pleas, in an action of treſpaſſe for 2000. l. pretending that I the day I was delivered out of Newgate had ſaid, that he the ſaid Col. *Edward King* was a Traytor, and I would prove him one (which according to your Articles of Warre, or your own Ordinances had, and ſtill is eaſie to doe, if you will doe juſtice) whereupon by petition to your Houſe I preſſed hard that he upon his impeachment might

dily come to his tryal, or elſe that I (as in juſtice, law, and equity ought to be) *might be protected, and the Judges of the Common pleas might be commanded to ſeaſe their proceedings, till King upon his impeachment* (then depending in the houſe of Commons) *might either be condemned or juſtified*, but I could get no anſwer to my petition, although I followed it with all the intereſt, might and ſtrength I had, wherupon being in very great ſtraits, I was neceſſitated to pen my plea my ſelf to *Iudg Reeves* & print it, in the penning of which I was neceſſitated, for my own iuſtification, to touch a little upon the Earle of *Mancheſters* refuſing to doe me and the kingdome iuſtice and right, in an open Councell of War againſt Col. *King*, and having by L. G. *Cromwells* meanes beene deeply with him engaged againſt the ſaid Earle, in actively proſecuting of that impeachment of Treaſon or breach of truſt, which he exhibited to your houſe about two yeares agoe againſt the ſaid Earle of *Mancheſter*, he the ſaid Earle of *Mancheſter* being then Speaker of the houſe of Lords, (and ſo chief Iudge in his own caſe) cauſed me as I conceive (though moſt illegally and uniuſtly) *upon the* 30. *of Iune* 1646. *to be ſummoned up to their barre to anſwer* (as by their warrant appeares) *ſuch things as I ſhould be there charged with, for writing that book or plea*, which if there had been any thing in it ſcandalous, it was only tryable by a *Iury of my Peers or Equalls* (which are Commons or men of my own condition) at the *Common Law*, the houſe of Lords having not by law the leaſt cognizance or iuriſdiction in the world of it, *and therefore all their proceedings with me from the beginning to the end are moſt illegall and uniuſt, and coram non iudice, and ſo null and void in law.*

And now in the third place, I come unto my plea, but by the way I deſire to premiſe this unto you, that by your own Declaration of the 15. of *December*, 1641, *and* 17. *of Ianuary*, 1641. *and the* 12. *of Iuly*. 1642. I *find the law of the land, and the ordinary courſe of iuſtice, called by you the common birth-right of all the free men or people of England.* 1. part book Decl. pag. 7. 38. 39. 459. *and in your Declaration of the* 23. *of Octo.* 1642 *p.* 660. *you aver, that it is the birth-right of the meaneſt of the Commonalty of this Kingdome, to inioy the freedome and libertye of the Lawes of the land, being* (as ther you ſay) *equally intituled unto it, with the greateſt Subiect.* The inviolable preſervation of which in diverſe of your Declarations you declare, *is the maine and principall end of all your undertakings, mannaged both by your ſwords and councells.* And this is that for which you have compelled the kingdome to ſweare divers oaths to maintaine with the uttermoſt hazzards of their lives and eſtates, and you have alſo imprecated (in your Declarations) the ſcarce wrath and vengeance of the great God of heaven and earth to fall upon you when you decline thoſe ends.

And therefore Mr *Maynard* conſidering all theſe your own words, and conſidering your own deepe knowledge and underſtanding in t

England, by the practize of which you have got a great part of your eſtate, and by the deſtruction whereof you are not worth a groate in all the world, having no propriety in that you poſſeſſe, being ſubject every moment of time to have all you have, taken from you without remidie, by him that is ſtronger then you; and therefore well did *Mr. John Pym* ſay in his ſpeech againſt the Earle of *Straford* (recorded in your own booke of Declarations, 1 part: page 140.) *that the law is that which puts a difference betwixt good and evill, betwixt juſt and unjuſt, if you take away the law*, all things will fall into confuſion, every man will become a law unto himſelf, which in the depraved condition of human nature, muſt needs produce many great inormities, Luſt will become a law, envy will become a law, coveteouſneſſe and ambition will become a law, and what dictates, what deciſions, ſuch lawes will produce, may eaſily be diſcern'd.

And truly Sir, neither the Lords, nor you, can lay it to my charge, that *I* am leagally convicted of the leaſt crime that doth diſfranchiſe me, or render me in the leaſt uncapable of injoying the utmoſt benefit and priveledge that the Law of England will afford to a freeborne Engliſhman; neither can the Lords nor you, juſtly pretend againſt me, that *I* have drawne my ſword againſt, (or otherwiſe publickly or privatly, engaged with any intereſt in England, for the deſtroying) the lawes and liberties thereof, nay, ſo farre have *I* beene from any of thoſe things, that I doe with confidence avere it, that *I* have as freely with my ſword in my hand (upon your and their primitive declared principles) adventured my life and blood for the preſervation of the lawes and liberties of England with as much reſolution as any Lord in England, and though it may unjuſtly be bruted abroad to my diſgrace, by the Houſe of Lords, or ſome other of my adverſaries, that I am now falen from, and have forſaken my firſt principals, and would have neither law nor government, yet *I* doe with abundance of confidence avere it, that I am not (if I know my own heart) changed or falen from my firſt principles in the leaſt, but that the Lords themſelves are the true apoſtates: and that they are the men, that in their conſtant practizes no v of late yeares; *ſtrongly endeavour to deſtroy all law* and government: and to ſet up in themſelves an abſolute arbitrary Tyranie, worſe then either *Starre Chamber*, *Councell Table*, or High-commiſſion, or all three of them put all together in one, which I doubt not but in my following plea, to make as apparant to this Committee, as the Sun that ſhines at noone day, for which end I deſire this Committee to take notice in the firſt place.

That the Lords doe not ſit in their Houſe by any power or authority, derived from the peoples free election and choice, (who cannot in juſtice, reaſon, and equitie, be bound, but by their own free conſents, neither in reaſon, juſtice-

iuſtice, or equity, can any be law-makers to them, that are not thereunto juſtly impowred by them, which the Houſe of Lords are not in the leaſt) but are meerly and altogether the creatures of the King made by his prerogative ſome times of the baſeſt and corrupteſt of the people, being the meere iſſue of his will, ſitting by his command, who himſelfe in reference to the bodie and eſtates of the people, is lymitted and bounded by the law.

1. As for inſtance by the 29. c. of *Magna Charta*, the King himſelfe can not impriſon any man, nor diſpoſſeſſe him of his freehold, liberties or free cuſtomes, or outlaw him, exile him or any otherwiſe deſtroy him, but by due proceſſe of law, according to the law of the Land, neither can he ſell, deny, or deferre, to any man either juſtice or right.

2. And by the Statute of the 2, *Edward*, 3 8 and 14 *Edwaard* 3, 14 and 11. R. 2. 10 the King is tyed that he ſhal not hinder, diſturbe, nor delay common right and juſtice according to the Law of the Land, by any commands under the great Seale, or the little Seale, neither by any letters of his Signet or ptivy ſeale, and if he ſhall ſend any ſuch commands, the Judges notwithſtanding, ſhall and ought to goe on to execute the Law in every point, as if any ſuch command had never been.

3. And by the Petition of right, made in the 3. d. of the preſent King all thoſe lawes, and liberties are not only confirmed, but it is there inacted and fully declared, that no man be adjudged or condemned, but by the lawes already eſtabliſhed, and declared, and that all the Adminiſtrators of the lawes of England, and all other of the Kings miniſters ſhall ſerve him and the Kingdome, according to the declared lawes thereof, and not otherwiſe.

4 And by the acts that aboliſhed Shipmoney, and aboliſhed the *Star Chamber*, and rectifieth the Councell Board, all and every the particulars of the ſaid Petition of right is not only confirmed, but it is inacted further, that neither his Majeſty, nor his privie Councell, have or ought to have any juriſdiction, power or other authority, by Engliſh Bill, Petition, Articles, libells, or any other arbitrarie way whatſoever, to examine or draw into queſtion, determine or diſpoſe of the Lands, Tenements, heredetaments, goods or chattels of any the ſubjects of this Kingdome, but that the ſame ought to be tryed and determined in the ordinary Courts of juſtice, and by the ordinary courſe of the law, which laſt clauſe is extraordinary pertinent to my purpoſe, that the ordinarie Courts of iuſtice, and the ordinary Courſe of the law, are to be tryers of all cauſes and differences, betwixt partie and partie.

And in that act there is a remedie provided for any man that ſhal illegally ſuffer impriſonment or hereafter be committed or reſtrained of his libertie, by the command or warrant of the King himſelfe, his heires or ſucceſſors in their own perſon, yea and the Kings oath, that he takes when he [illegible] King recorded 1. part booke decla. page 712, 713, 714. tyes him to

is people, according to the eſtabliſhed Lawes, and to preſerve unto them their liberties and freedomes.

Now Sir, if the King the creator of the Lords be thus reſtrained by Law as he is, that he ſhall not doe to the freemen of England what he pleaſeth, nor exercise an arbitrarie, tyranicall, illegall, power over their bodies or eſtates.

It is impoſſible for him to give unto the Lords the exerciſe of an arbitrarie tyranicall, illegall power, over their lives liberties, or eſtates, for it is a *maxime in nature, there is no being beyond the power of being*, neither I am confident are they able to produce any ſoled teſtimonie that he ever gave them any ſuch power. And though I grant that the King to the iudges &c. gives ſuch a power, as he can not, nor doth not in his own perſon execute, yet I ſay that it is alwayes a power, not flowing from his owne will, but limitted by the Law, by which he is authorized ſo to doe by acts of Parliament, and I am ſure by the words of the writt by which he ſummond them to ſit in Parliament, (as I find it printed in a late printed book, called the manner of holding Parliaments: pag 37.) which writt is the foundation and roote of their power) all the power that is given them by that writt, *is to come to the Parliament, to confer and treat with the King* (or afford their councell) *of certaine hard urgent affaires, concerning the King, the State, and defence of the Kingdome of England, and the Church therof*. But my pretended offence, touching none of theſe things but at the moſt is meerely an action, or offence tryable at common Law, *Cooks* 5. part reports *delibellis Famoſis*, and beſides the Lords about me had no conferrence nor treatie with the King their prorogative fountaine, as by their writt of ſummons, which is the foundation and ground of their power they ought to have.

And therefore the Lords not only by the common law, but by their own law, and principles had not the leaſt ground to pretend to a power or juriſdiction in the leaſt of my cauſe.

2ly I am ſummond by the Lords Warrant to come to their Barre and to anſwer ſuch things as I ſtand charged with before them Lordſhips, concerning a pamphlet intituled *the iuſt mans juſtification*. Now Mr. *Maynard*, admit that that pamphlet as they call it, were mine, and full of ſcandals in the higheſt nature, yet lybells and *ſcandalum magnatum* is not to be tryed by the Houſe of Lords, but is to be tryed only (now the *Starch mber* is downe) by an action at the common law, as appeares by the 5. part of *Cookes* reports, pag. 125. and the 13. *Hen.* 7. *Kelway*. 11. *Eliz.* Dier 285. and 30. aſſiſe pla. 19. all which is fully confirmed by your own words in your own declaration, of the 19. *May* 1642. 1. part booke Decl. pag. 208. where you affirme againſt the King, that he hath wayes enough in his ordinary Courts of juſtice, to puniſh ſuch ſeditious pamphlets, and ſermons as are any way prejudiciall to his rights, Honour, and authority, and if any of them have

been

been so insolently violated, and vilified, his Majesties own Councell and offi
cers, have beene to blame, and not the Parliament, who did never restrain
any proceedings of that kind in other Courts, and what you there avare o
the King, I much more avare of the Lords, that their remedie in case of libel
ling (which yet I deny mine to be) is onely at common law, where there i
a writ, and action by the law ordained, *de scandalis magnatum* (as also for libels
only triable by a Jurie upon an indictment at common law and not other
wise, and this also seemes to me to be very cleare, and evident by the Sta
tutes 3. E1. 33. and 37. E. 3. 18. and 38. E. 3. 9. and 42. E. 3. 3. and 2. R. 2. 5
and 12. R. 2. 11. none of which I am sure gives the House of Lords, any
cognizance of my pretended crime, & therefore for them to meddle with me
having no jurisdiction of my cause, it being neither about errour or delay
of justice in inferier courts, their proceedings are thereupon all *Coram non
judice*, and so void and null in law, from first to last it being a maxime in law
that that which from the beining is not valid, can never be made good by trac
of time, or those things which are begun from an evill principall, can never
attaine to a legal Issue. 4. *part Cooks reports p.* 125. *Vernons case.*

3. My third argument against all the Lords proceedings with me is thi
that no man what ever he be is to be imprisoned, but by the established lawes of the land
they are the very words of the *excellent Petition of Right*, but there is no esta
blished Law for the judgement of the Lords in any thing where the King thei
Creator is not concurrant 14. *Edward* 3. 5. for the Lords as I said before
are only there, not by any election, or power, from the people, but as persons
of honour created and made by the will of the King to assist him as before, and
let their Lawyers or any of their Proctors shew me one president before thi
Parliament to the contrary, without the Kings Writt for Execu
tion

For by the Writ of Error, wherein lyes the main and principall power o
the Lords, there must be a Petition to the King for the allowance thereof
and the King must give them a particular Commission, and power to take
Cognizance of it before they can have jurisdiction of it, as is clear by the ex
presse words of the 14. *E.* 3 chap. 5 which Statute is the principall strength
and basis of the Lords power; but my case is neither delay of justice in an
o her Court, nor corruption of judgement in another Court, which is all th
cases the Lords have jurisdiction of by law, which is as binding to them as to
any other Courts of Justice in England; as is cleere by the 4. *H.* 4. 23. which
Statute possitively declares, *it is a subversion of the law of the land for the Lords
originally to take cognizance of causes, or to overrule the just and ordinary proceedings of the law*
in other

in other inferiour Courts: * Neither was there made in my caſe any Petition to the King, nor any Commiſſion of his granted to the Lords to authorize them to meddle with me, and therefore all their proceedings againſt me are illegall from firſt to laſt in the higheſt nature. Again, it is plain by the Law of the Land, *That no man ſhall be put to anſwer without indictment or preſentment of his good and lawfull people of the ſame neighbourhood, before Juſtices, or matter of record; or by due proceſſe, and writ originall, at the common Law according to the old Law of the Land.* See 5. *E.* 3. 9. & 25. *E.* 3. 4. & 28. *E.* 3. 3. & 37. *E.* 3. 18. & 42. *E.* 3. 3. & the Petition of Right made the 3. of the King, *and the Act that aboliſhed the Star-Chamber* made *the* 17. *of the King. And Sir* Edward Cookes *Expoſition of Magna Charta*, but not any of this, was done in my caſe; for the Lords ſummoned me *Ore tenus* before my charge was filed againſt me, and examined me *Viva voce* upon interrogatories againſt my ſelf, without letting me know either Accuſer, Proſecutor, Witneſs, Jury, or Charge, and therfore all their proceedings with me from firſt to laſt are totally illegall & moſt unjuſt.

* *As was lately fully pleaded at the Lords Bar (as I am from very good hands imformed) both by Mr. Recorder* Glyn *and your ſelf Mr.* Maynard *in the remarkable caſe of* Limbry, *againſt Alderman* Langham, *unto which Plea concurred the opinion of all the Judges then in England, which they were commanded to give by the Lords ſpeciall command, upon which very Plea as I am told, the cauſe is ſince diſmiſſed from before the Lords as not legally proper for their Juriſdiction, which at leaſt ſerves thus far to my end, that an Act of Parliament is as binding to the Houſe of Lords as to any other Court of Juſtice in England: I might here alſo make uſe of the Duke of* Epernoones *caſe about* 12 *years ago if I wanted matter & Law againſt the Lords.*

4 My fourth Argument againſt the illegal proceedings of the Lords with me is, from the 29 Chap of *Magna Charta and the* 3 *E.* 1. 6. and the Petition of Right, which expreſly declares, That no man is to be judged but by his peeres, and by due proceſſe according to the Law of the Land (ſee *Clarks* caſe in 5 part *Cooks* Reports) that is as learned Sir *Edward Cook* in his Expoſition of Magna Charta (publiſhed for good Law by two ſpeciall Orders of your Houſe) ſaith, by his *equals*, that is, *men of his own condition, Commons only being peeres to commons*, as Barons of Parliament are peeres to Barons of Parliament. 2 Part Inſtitut. fol. 28, 29. 46. 50. where alſo he declares what title they bear that are comprehended within the name of peeres of Parliament, and alſo what titles they have that are comprehended within the title of Commons. And notable to this purpoſe is the Record of Sir *Simond de Berisford* in the 4. *E.* 3. *Ro.* 2. which M. *Henry Martin* had from me at large laſt year under the hand of the Record-

Keeper of the Tower of London; and which I have printed 18 & 19. pag. of the *Oppressed mans oppressions declared*, the substance of which Record is, *That* E. 3. *in his own person did charge the House of Lords to give right and lawfull Judgment against Sir* Simond de Berisford *for his treason and murder in murdering his Father King* Edw. 2. but the Lords to the King in Parliament said all with one voice, That the aforesaid Sir *Symon was not their peer, wherefore they were not bound by the Law to give judgment against him*, yet nevertheless at the Kings importunity they did, *but it was assented, agreed and enacted* (saith Sir Ed. Cook 2 part Inst. fol. 50.) *by the King and all the grandees in full Parliament, That that judgement should never be drawn into example, or consequence for the time to come*: And they there gave the reason of it, *because it was against the Lawes of the Land, for them to judge those that were not their peeres and equals.*

From whence I observe, That if it be illegall for the House of Lords with the Kings presence, consent and concurrence, (as they here confesse) to condemne Sir *Simon de Berisford* for Treason and murdering the King, (because he was none of their peere) although vigorously put upon it by King *Edw.* the Third in the behalf of his father, who in his own person sate and concurred with them in it; *much more is it unlawfull for the Lords to presume, to passe judgment upon me a Commoner*, for a triviall supposed case, without the King their creators prefence, Commission or Concurrence, which by their own principles, and by the principles of the Law yet in force, gives life, power and strength to all such their Judiciall actions, and therefore all their proceedings with me are most illegall and unjust, and utterly null and void in Law.

5 My Fifth Argument against them is, That by the Lawes of this Land no man is to be Judge in his own case, 8. *H.* 6. fol. 21. *El. Dier.* 220. and Doctor *Bonhams* case 8 part of *Cooks* Reports, yea and an Act of Parliament in such a case, is a void Act by Law.

Therefore the Lords ought not to have judged this cause of mine, for that it concerns themselves, or at least the Earl of *Manchester* who was Speaker all the three severall times I was before their House, who with the rest of his fellow Lords, were not only Parties, but *Complainants, Prosecutors, Witnesses, Jury and Judges*, which practise is against all the Lawes of England and the formes thereof, as you your selves notably confesse and declare in the case of the five Members, 1 part Book Decl. pag. 38, 39, 201, 278. and a greater act of injustice then ever I heard was done, by either the *Starre-Chamber, Councell-Board or High Commission Court*, in the dayes of their greatest tyranny and oppression.

6 If the Lords judgement originally were binding in my case, then a few Lords would bind not onely me, but all the Commons of England, who all one after one, may be so served by them, as I am, and that without any hope of redresse in the world, (which both Law and reason abhorres), 1. part. Book Dec.

pag.

pag. 44. 150. 207, 496, 637, 696. 726, 728) either by Writ of Error or Appeal, Attaint or Certificate of Assize to any Court whatever, no not to the Parliament it selfe, for then it would come before themselves againe, who would never condemne themselves nor their owne Decrees.

And if the House of Commons suffer the Lords to excercise such an arbitrary illegall tyranny as they have done upon me, and without all grounds, rules or formes of Law, suffer them to send for whom of the Commons of England they will, and at their will and pleasure condemne them in what and how they please, then the House of Commons stands for meere cyphers, the Judges in Westminster-Hall for cyphers, and all the Lawes in England for cyphers, and we the Commons of England are become the perfectest slaves this day upon the face of the earth, and by this practice the end of all Government is overthrowne, viz. *the weale and safety of the people*, as your House declares it to be in your notable Declaration of 17. *April*, 1646. 2. *part Book Decl. pag.* 879. where you also declare, (but I may say by your dealings with me, without any intentions to performe it) *that you will not, nor any by colour of any authority derived from you, shall interrupt the ordinarie course of justice, in the severall Courts and Judicatories of this Kingdome, nor intermeddle in cases of private interest, otherwhere determinable, unlesse it be in case of male administration of justice, wherein ye shall see and provide that right be done and punishment inflicted as there shall be occasion, according to the Lawes of the Kingdome, and the trust reposed in you.*

Yea, and hereby the people of the Kingdome are left without all meanes to preserve themselves, *which your selves say, it never ought to be, being as old a Law as any is in the Kingdome*, 1 part Book Decl. pag. 207. in that you suffer the House of Lords without controule to exercise at their pleasure such a power over the Lives, Liberties and Estates of the Free-men of England, as I confidently aver it, cannot legally nor justly be exercised by King, Lords and Commons, joyned and agreeing altogether, who are (when the most is said that can be said of them) but Magistrates (as all other Magistrates are) appointed for the protection and preservation, *but not ruine or destruction of the people*, 1 part Book Dec. pag. 150. yea and *de facto*, habitually to doe that, for but endeavouring of which, the *Earle of Strafford lost his head* by the decree of this very Parliament, and for which I doubt not but either *I or my posterity shall see the proudest and stoutest of them to do theirs*; it being more just, equitable, and rationall, to destroy a man for acting and doing of a mischiefe, then intending it, *Strafford* being a Saint and a just man upon their owne principles in comparison of themselves.

And therefore Sir, if you or the Lords shall shew me as many Presidents as will fill *Pauls*, that they have done to others as they have done to me, I va-

lue them no more in comparison to the severall Acts of Parliament, and the Common Law of the Land (which are above Acts) that I have cited (which are point blank against their usurpations) then I value a dirty rag on the dunghill, and *I say unto you, that if the Lords in their House can make Presidents to destroy Acts of Parliament*, (and plucke the fundamentall common Law of England up by the roots) yea such Acts as have been confirmed by scores of Parliaments, then why doe you cozen, blind, deceive and delude the people of England, by sitting for cyphers in the House of Commons, *and therefore awake and rouze up like men, and powerfully and effectually rescue our Liberties from them, least we doe it our selves, and punish you, as justly you deserve for your cowardly or treacherous negligence.*

7. The Lords being the meere creatures of the King, made by his will and pleasure, and set there as Prerogative persons, and yet in Law and by their own principles, as Lords without the King, they have no Prerogative, and yet have acted upon mee, without the King or his particular Commission, which makes all they have done unto me, to be null and void both in Law and reason; yea, and I may justly say, that they, both in reference to the King and people *thereby have forfeited their power and honour*, and cannot justly by you the Trustees of the people, *(and who should be the Guardians of their Lawes and Liberties)* any longer be owned or acknowledged, either in equitie, reason, honour, justice, safety or conscience to be a House of Peers, but a company of Apostats falne from their first institution and degenerated into Tyrants, and therefore deserve at least from you and the Kingdome the Starre-Chambers doome.

Object. But contempt of a Court, by the Law, subjects a man to Fine and Imprisonment.

Answ. I answer: first, I doe absolutely deny, that I did either contemne or affront their Court, for I obeyed their Writ of Summons, and withall respect and Complement came to their Barre, (which I aver was more then by Law I needed to have done) *where being examined upon Interrogatories against my self, I pressed hard to be dealt legally with; and to see my charge in writing, and to know my accuser and persecutor, both of which was denied me, contrary to Law and Justice, and a judgement in my owne case given by themselves, but the February before against the Starre-Chamber, where they declared that the Starre-Chambers sentence and all their proceedings against me* (which was upon the very same point, for refusing to answer Interrogatories) *to illegall and most unjust against the Liberty of the Subject, and Law of the Land, and Magna Charta, and unfit to continue upon Record*, yea and in another Decree gave me 2000.l. damages, against some of the Judges and Executors of that sentence; all which I pressed againe and againe at their open Barre, which was to no purpose; for they angerly pressed me to give a positive answer to their illegall

questions,

queſtions, and beleeving in my owne breſt, I ſhould be committed for refuſing to anſwer, I delivered in my Plea by way of proteſt, againſt their Juriſdiction, as juſtly I might do, (it being a maxime in Law, (as I ſaid before) that that which is *illegall in the beginning, by tract of time cannot be made lawfull*) for which and nothing elſe, they moſt illegally committed me to Newgate, the 11. June, 1646. which Warrant I deſire may be read, as alſo the Decree.

2. I anſwer, their Court was no Court to me in my caſe, *having no Juriſdiction of the cauſe*, being not any of the cauſes that they by the 14. *Ed.* 3. *c.* 5. have Juriſdiction of, and if it had, *yet by that Statute they could not meddle with me without the Kings concurrence, and his ſpeciall Commiſſion*, which they had not in the leaſt, and therefore in a double reſpect all their proceedings with me, are moſt illegall and unjuſt, and therefore null and void in Law.

3 But in the third place I grant, that contempt or affront of a Court that hath juriſdiction over the Cauſe is fineable and impriſonable, but to affront, contemne, or abuſe a Court that hath no Juriſdiction of the cauſe for which the party is convened before them, I ſay by Law is neither fineable nor impriſonable: As for inſtance, if a Court of Seſſions queſtions me for my Freehold, and I refuſe to anſwer them, and give them contemptuous words for medling with that which by Law they have no juriſdiction of, they may by Law bind me to my good behaviour, but cannot fine or impriſon me, much leſſe diſ-franchiſe me of all the priviledges of an Engliſhman, as the Lords have done to me, as appeares by their ſentence: the ſame holds good in the Court of Common Pleas, who if they go about to hold Plea of Murder before them, if the party refuſe to anſwer, it is no contempt of the Court, becauſe they have no juriſdiction over ſuch cauſes. And pertinent to this purpoſe is *Baggs* Caſe in the 11. part of *Cooks Reports*, who being ſummoned before the Mayor of Plymouth, in open Court called him *cozening Knave*, and ſaid unto him, *come kiſſe*, &c. for which the Mayor diſ-franchiſed him, and it was reſolved, that the *diſ-franchiſement was illegall, becauſe it was not according to Law, for that the Mayor in Law had no power to do it*, and at moſt could have onely bound him to his good behaviour.

So that the Lords aſſuming over me a power of Juriſdiction without Law, *and the Kings Commiſſion according to the forme of the Statute in that behalf*, they are no Court to me in my caſe, nor capable of the cauſe in controverſie betwixt us, and therefore I ſay again in a double ſenſe, they have not the leaſt ground or colour in Law either to Fine or Impriſon me, but at moſt (in caſe there were an affront, as I deny) to bind me (or cauſe me) to be bound to my good behaviour; and as for keeping *on my hat, refuſing to kneel, and ſtopping of my eares a noneth* after my firſt commitment in contempt of their illegall uſurpations, having long before that juſtly appealed to the Houſe of Commons, I am not in the leaſt cenſurable therefore as they have cenſured me, *even to* 4000. *l. fine, 7. years*

impriſonment,

imprisonment, and everlasting disfranchisement, seeing it is a Maxime in Law and Reason both, *That that which from the beginning is not valid, can never be made good by tract of time; or those things that are begun from evill principles, can never attain a legall or just issue.*

Object. But if it shall be objected, That this Argument destroyes the Act of the continuance of this Parliament, *because the King is and hath bin absent, and not in a capacity according to the Statute to grant His Commission and Concurrance.*

Sol. I Answer, That the act of continuance *gives the Lords no more power then what they had by the Law before,* for it gives them nothing but continuance, and therefore the Argument is legal & just against them, that the Prerogative Lords forsaking their own creator, and dealing with me contrary to the Lawes and Statutes of the Kingdom; yet as much in force as ever, and not appropriating or assuming to themselves any formal new power, but meerly stand by their Primitive power derived from him (he being by their own declared principles as much their King as ever, all Writs, &c. still running in His Name) they have lost their Honor and Justice in going beyond their bounds, and dealing so illegally, tyranically, and unjustly with me as they have done. Therefore from all the premises and authorities before mentioned laid together, I do draw my conclusion which is this, That I was originally and still am most illegally imprisoned by the House of Lords, and illegally fined, and illegally disfranchized, in such a manner that in all ages by the most oppressive and worst of Courts of Justice in England, was never known nor heard of before, for a bare and supposed Misdemeanor.

And therefore I most earnestly and most pressingly crave as my right, the Judgement of the House of Commons upon my appeale to them against the Lords, (for which I have waited upon them almost seventeen months) and that I may no longer run the hazard of ruine and destruction, of me, my wife, and little children, for contesting for my own, both in the sight of God and man; and which is mine both by the law of God, Nature, and my Country; that is to say, My sentence vacated, my liberties for future secured, and the Lords exemplarily punished, as well as the Star-Chamber, High-Commission, or Councel-Board, being they may more justly be charged then any of them, *for not keeping themselves to the points limited unto them by the Lawes and Statutes of the Kingdom,* but have (not only with me, but with multitudes of others) *undertaken to punish where no Law doth warrant, and to make decrees for things,* for which they have no such authority, and to inflict heavier punishments then by any Law is warranted, which as the act it self expresseth were the principle causes of their abolition, and may more justly be of the House of Lords, for that there was hopes of remedy (in case of injustice done by them) by appeale to a Parlia-

which cannot in the leaſt be expected againſt the Houſe of Lords, the appeal being ſtill to themſelves, unleſſe the Houſe of Commons do inſtate appeales againſt them ſoly in themſelves: " And by how much the more they judge their " Court to be higher then other Courts, by ſo much the more they ought in " law, juſtice, equity, conſcience and honor, to be tranſcendent in the equal, ſe- " gall, juſt, and impartiall adminiſtration of Juſtice: an act of tyrany and oppreſſion being ten times more odious in them then in any other inferior Court, as learned Sir *Edw. Cooke* well obſerves in his 4.part Inſtitut.chap.1

And alſo I demand as my right and due, ample reparations from the Lords for all their tyranny illegally without remorſe, pitie, and compaſſion exercied upon me, to the apparent hazzard of my life and being, and that I may alſo have from them ſo much money for my legall maintenance, as in all ages for theſe three or foure hundred years hath been allowed to men in my condition and priſon, and may be provided for for the time to come during my ſtay there.

And that I may freely be left (as I ought) to take my courſe at Common Law upon all Jaylors, Keepers of Priſons, and the Sheriffs of London, as have moſt illegally and unwarrantably executed their illegall, arbitrary, and unbinding tyrannicall Orders and Decrees upon me, See the Caſe of the Marſhalſeas 10 part Cookes Reports, and that now after ſeven yeares delay by you, I may alſo immediatly be put by your Houſe into a certain capacity to receive of the Earl of *Saliſbury*, old Sir *Henry Vane*, the Lord Chief Juſtice *Bramſton*, and Doctor *Alliſe*, who have viſible and plentifull eſtates in being, my long-ſince decreed reparations againſt my Star-Chamber Judges, with juſt additions for my long ſtay, large expences, and great troubles therefore, and not be put to ſeek it from the Lord *Cottington*, Sir *Francis Windebank*, and Mr. *Ingram*, late Varden of the Fleet, whoſe eſtates are ſo waſted and deſtroyed by ſequeſtration, &c. that I know not where to find them, and may be hereafter, as I have been already, ſeven years in obtaining my juſt right and due from them.

And laſtly, I earneſtly deſire and preſſe, that ſpeedy care by your Houſe be taken, to put the Earl of *Mancheſter* and Col. *Edward King* upon their thorough Trialls, upon the foreſaid Impeachments, either to their juſtifications or condemnations; and that all Suits of theirs at Common Law againſt me for words ſpoken about or concerning the ſaid Impeachments, may be ſtopt, as not Juſtice, Law, and Equity they ought to be, till they be either condemned or juſtified upon the ſaid Impeachments.

And now Sir, I have done with all and every thing that in point of Law I have to ſay againſt the Lords irregular dealings with me, till they reply: ſome other things in reference to the Houſe of Commons (I think as eſſentiall to my own welfare as any thing I have already ſaid) I have ready to ſay, but that my preſent ſtrength and voice is in a manner quite ſpent, ſo that I cannot well go

on

on at preſent, though I have all my matter ready; and therefore I earneſtly intreat a new day to ſay out the reſt, and ſo leave it to your judgment: and Tueſday next (being the 26. of October 1647. at two a clock in the afternoone in the ſame place) being your own appointed time, I earneſty deſire your preſence there, when and where I doubt not but I ſhall demeane my ſelfe with as much honour and reſpect towards you, as you upon Wedneſday laſt, with juſtice, candor and fairneſſe did demean your ſelf towards me, and the Kingdome, ſo much concerned in me, in giving me ſo faire, publike, free and uninterrupted a hearing, which can not but in ingenuity be acknowledged a great obligation to him that in ſincerity ſubſcribes himſelf,

Sir, Yours and the Kingdoms faithfull ſervant, *John Lilburne.*

VNto this ſecond Edition of my Plea, I deſire to annext my Propoſition, which I ſent to the *Speaker of the Houſe of Commons*, which he cauſed in the Houſe to be read, which was the occaſion of appointing the fore-mentioned Committee to heare me anew in point of Law; which Propoſition thus followeth,

The Propoſition of Liev. Col. *John Lilburne*, Prerogative Priſoner in the Tower of *London*, made unto the Lords and Commons aſſembled at *Weſtminſter*; and to the whole kingdome of *England*, *Octob.* 2. 1647.

I Grant the Houſe of Lords, according to the Statute of the 14. *Ed.* 3. chap. 5. *to have in Law a Juriſdiction for redreſſing of grievances, either upon illegall delayes, or illegall judgements given in any of the Courts at* Weſtminſter Hall, *provided, they have the Kings particular Commiſſion therefore, and all other the legall Punctillos contained in that Statute*, which Juriſdiction and no other, ſeems to me to be confirmed by the Statutes of the 27. *Eliz.* chap. 8. and 31. *Eliz.* chap. 1.

But I poſitively deny, that the Houſe of Lords, by the knowne and declared Law of *England*, have anie originall Iuriſdiction over anie Commoner of *England* whatſoever, *either for life, limbe, liberty or eſtate*; which is the only and alone thing in controverſie betwixt them and me. And this poſition I will in a publique Aſſembly, or before *both Houſes*, in Law debate with any 40 Lawyers in England that are practiſers of the Law, and I will be content the Lords ſhall chuſe them every man, and if after I have ſaid for my ſelfe what I can, that any three of theſe forty Lawyers ſworne to deliver their judgments according to the knowne Law of England, give it under their hands againſt me, I will give over my preſent conteſt with the Lords, and ſurrender my ſelfe up to the puniſhment & ſentence of the preſent Lords & Commons

Provided at the debate, I may have ſix or ten of my owne friends preſent to take in writing all that paſſeth thereupon. VVitneſſe my Hand and Seale, in the preſence of divers witneſſes in the Tower of London, this 2. of October, 1647.

JOHN LILBURNE.

The Additio

The additionall Plea of Lievt. Col. *Iohn Lilburne*, prerogative priſoner in the Tower of *London*, the 28. of *October*, 1647. which he ſent unto the Committee of the Houſe of Commons, where Mr. *Iohn Maynard* the Lawyer hath the Chaire, with a letter, which letter thus followeth.

To his honoured friend, Mr. *Iohn Maynard*, Chair man to the Committee, for revuing of Lievt. Col. *Iohn Lilburnes* buſineſſe againſt the Lords, at his Chambrr in the *Temple*, or at the Houſe of Common, this deliver with ſpeed.

Mr. Maynard,

I Cannot but in civility, returne you many thankes for your readineſſe and freeneſſe to heare me at large make my grand Plea againſt the Lords unto you upon *Wedneſday* the 20. preſent, hoping upon *Tueſday* laſt according to your own Order I ſhould have been heard out to have ſaid unto you what I had behind, and ſo have left it to your judgements and conſciences what to have reported to your houſe; but truly Sir, the Committees not comming together, I looke not upon as an accident, *but a reall deſigne upon me, that ſo I ſhould not have a period put to my buſines, about the Lords*, for which I have (almoſt to my utter ruine) waited upon you about 17. months, nor reap no preſent benefit for all my moſt barbarous ſufferings, from the Biſhops and the Star Chamber, *for which I have earneſtly followed you for iuſtice and right now almoſt full ſeaven yeares*, to the expence of many hundred pounds; and that upon the motion of Mr. *Henry Martin* in your Houſe this day, for the further and effectuall ordering of a ſpeedy care to bee taken to put a period to my long ſince juſt Appeale, (*the tryall of which you have ſo often taken upon you, that you now cannot well evade the iudging of it*) tooke no effect at all, which I alſo look upon as a meere deſigne of the Lords ſons, and Lords would be in your houſe, with the powerfull *influence of my grand adverſaries, the grandees of the Army, that have of late eagerly and viſibly (for my honeſty)* ſought my ruine. And truly Sir, being that I have not a penny inheritance in all the world, nor any trade agoing to bring me in a penny to buy me bread: nor a penny allowed me either from you or the Lords to buy me food, and all my friends ſtrongly indeavoured to be ſcared away from me by the ſtrictneſſe of the preſent Lievt. of the Tower, the meere creature of my now grand adverſarie Lievt. *G. Cromwell*, in cauſing all their names at the

gate to be taken that come to see me, *contrary to all law, reason, equity, iustice, and conscience*, in which condition if I continue a little longer, I must of necessity perish. And therefore that I may not be guilty of my own ruine by any delay on my part, I *have inclosedly sent you my additionall Plea under my hand and seale* (which on *Tuesday* (if the Committee had sate) I intended to have delivered both by word of mouth and writing unto you, as the conclusion of all I have to say against the Lords (unlesse they give in an answer) and now I earnestly desire you to call your Committee together, and trouble your selves no further to send for me, but draw your conclusions of the whole matter as it is before you, and then I intreat you without any further delay to quit your hands of it, by making a speedie report to your house, *that so I may by your long expected iustice be preserved from a speedie and unavoidable ruine*, which I cannot willingly suffer to come upon me, without the attempting of the effectualleſt meanes that reason and compeld necessitie can dictate unto me for my preservation, *though I run the hazzard of being cut in ten thousand peeces thereby*, and if I perish the ruine and blood of me and mine must be (both by God and man) requied of *your adomant and flinty hearted house*. Sir this I have writ unto you on purpose to communicate it to your house (before I print it) as my last intended addresses, to leave both you and them before God and the whole world without excuse, so with my service presented unto you, I commit you to God and rest.

From my most illegall Captivitie in the Tower of London, *this* 28. *of* October. 1647.

Sir, your true friend to serve you, (if you will effectually acquit your selfe as a true servant of the Common wealth) that dare attempt the effecting of the desperateſt designe in the world, that appeares to his understanding iust and honeſt, if compeld thereunto by necessitie.

John Lilburne.

The Plea it selfe thus followeth.

And now Sir, I desire to speake a few words to that which I have conceived as essential to my good & benefit, as any thing that yet I have said, & that is this, in some of my late letters to M. *Martin*, I have declared, *that I cannot own the iudgment of the present mixed house of Cōmons*, being compounded of two *Any-parties*, the one of which must of necessitie upon their own publique declared principles be guilty of the higheſt of crimes, upon which some of the active agents of my close and heavie adversaries of the Army, have taken occasion

caſion thereby to doe the utmoſt they can to blaſt my reputation, indeavouring to make honeſt conſcienciousmen in *London* beleeve, and report me to be a man fallen from the principles I formerly went upon, and from the Parliament, and the intereſt of the Commons of *England*, and am totally become a Cavialeere, and ſoly captivated, or degenerated to their principles and intereſt, and act what they in their deſparate Councells put me upon, when they have diſtempered me with drinke, &c. And at the Head quarters, and in other quarters of the Army, I am by the foreſaid wicked and Lordly agents, rendred a man that would diſtroy the King and kingly government, the Parliament, and moſt of the chiefe men in the Army, and that I am the head and chiefe of a generation or faction of men that are altogether for Anarchy and confuſion, and would have no government at all in the *Kingdome*, but have every man to doe what he liſt, and have all things common, and ſo diſtroy all law and property, and that I might have my liberty and freedome if I would, which ſay they I have by all the wayes and meanes I could invent declined, being a gainer by my impriſonment; and fully hearing of theſe things, and how diſſignedly, malicioufly, lyingly, and confidently from one company to another, they were blaſted abroad by the Agents and inſtruments of no meane ones. And although my principles, and the conſtant, viſible, and publique Declarations thereof fully declares (as my late Plea before you alſo witneſſeth) that I am for *meum & tuum*; liberty and property, continually profeſſing, that I had rather live under a very hatſh law, whereby I may know by what rule to walke, then live under the moderateſt arbitrary government in the world, begun to be exerciſed by the godlyeſt, juſteſt, or choiſeſt men that ever the earth bred, in regard I am not then under law, (which all men that ever God created ought to be) but under will and power, by which (by reaſon of mans corruption, who here hath no perfection, but are ſubject to actuall backſliding, and degenerating) *I* am lyable and in danger every houre to be diſtroyed at the pleaſure of him that is ſtronger in power then I. *And* although I had often profered Bayle for my liberty to the Generall and his *Lievtenant* of the Tower, and offered to put any difference betwixt me and any in the Army, to the full and finall determination of honeſt men, equally choſen, and in caſe they could not agree in their judgment I was willing the Generall himſelfe (to whom I am but a ſtranger) ſhould be Vmpire and finally determine them, but finding my ſelfe no whit ſecured or preſerved for all this, from their deſigned, blaſted calumniations.

I was in no ſmall ſtraights in my own ſpirit, being ſenſible of my great and urgent neceſſities in my preſent condition, the continuance of which but for a ſmall time longer, muſt needs in reaſon be the ruine and diſtruction of me, my wife and children, and having offered all (time after time to thoſe I

look upon as my preſent Gaolers) that in my thoughts it was impoſſible for
man of brains and honeſty to invent, and ſtoop too, to obtaine his long longe
liberty, but all in vaine; I was neceſſitated, ſeeing I could not own the preſen
mixed Houſe of Common, nor willingly ſubmit unto their ſentence in th
condition I was neceſſitated I ſay, to publiſh in print my Propoſition of the
of *October*, 1647. Which in private I had made unto Liev. Gen. *Cromwe*
ſome weeks before, face to face, with divers other things as faire in them
ſelves as it. And *I* cauſed it under my hand Seale to be delivered unto th
Speaker of your Houſe, that ſo all the Kingdome might know my readin
and willingneſſe to ſtoop to any thing in the world that was rationall an
juſt to obtaine my thirſted for liberty and freedome.

Which paper your Speaker communicated to your houſe, and cauſed it t
read and debated, which as *I* am told hath procured this Committee, unt
whoſe deſires ſo farre as with a good conſcience, and the preſervation of m
principles, and integrity I am willing to ſtoop (that ſo I might ſtop th
mouths of my calumniators, and bring my buſineſſe to an iſſue, being rath
willing to hazzard (if I had them) a million of lives, then much longer re
maine vnder my preſent tyranny and impriſonment) and therefore it is tha
I have obeyed your ſummons, and gon thus far with you as I have don
knowing by your order, you are not difinitively to judge my cauſe.

And therefore before your houſe finally judge my cauſe, I deſire you fro
me to acquaint them that *Sir Thomas Fairfax* and the Army under his com
mand, upon the 18. *Auguſt* 1647. hath publiſhed a Remonſtrance printe
twice by two ſpeciall Orders of the preſent Houſe of Peers, to the view o
the whole kingdome, and approved of by all the Members of the Houſe o
Commons, that went to the Army for protection. In which Remonſtranc
they utterly diſclaime and renounce Mr. *Pellam*, and all thoſe that ſate an
voted with him, as Vſurpers of Parliament authority, forfiters of their truſt
and Traytors to their Counrty, for actually by their Votes, Orders, and O
dinances, levying of a new warre in the kingdome, againſt the peace and th
power thereof, which Sir *Thomas Fairfax* is ſince by this preſent Houſe o
Commons owned by them for their Generall, and the Army under him fo
their Army, and yet the moſt of theſe very Members thus declared againſt
ſit in the houſe, being in this condition, by reaſon of their crimes declared i
that Declaration under the power, laſh, and awe of thoſe of that Army, th
have the power of that Army at their beck and command.

Wherefore I deſire, that ſeeing Lievt. Gen, *Cromwell* is the man that i
gaged me originally in my conteſt againſt the Lords, and particularly again
the Earle of *Mancheſter*, who then in his diſcourſe to me, was the greate
Anti Lord (I aver it) that I converſed with in *England*.

An

And seeing that now of late, (as I have too much cause to judge) he is apostatized from his principles, and the peoples liberties, and hath visibly shaken hands with those he accused and judged to be enemies to the peace and liberties of England, and is now, as I have too much cause to judge, become a patron, approver, and protector of them in all their Arbitrary, illegall, and tyrannicall usurpations, with all his interest, with the conductive power of the Army, which now he hath at his beck, and by meanes of which he holds a rod of feare and terror over the heads of all those Members of the House of Commons, that they shall not dare (for their own safety and preservation) to give their Votes freely against the Lords, seeing that he in interest and designe is now so neerely conjoyned unto the present House of Lords, who I may now justly call his creatures at his beck to execute his will and mind, and therefore desiring to stoop as low as in justice and honesty I can, to put a period one way or another to my present contest with the Lords, I earnestly desire that the House of Commons will publiquely declare against the foresaid Remonstrance (if Mr. *Pellam* and those that sate with him, were a true house of Cõmons) that so al the said Members therin concerned, may effectually be instated in the full condition and capacity of free and innocent men, that so without feare of Liev. Gen. *Cromwell*, or his power in the Army, they may vote freely according to their consciences, and then I shall freely submit to their judgement. Or else secondly that according to the tenor of the said Remonstrance, they may either be totally expelled (or else *pro tempore* in my cause) and I shall freely put my selfe upon the judgement of the remaining part of the House of Commons, let it be what it will, I value it not, so I may come to an issue, & therby fully know what I have to trust to. Or if neither of these can at present without further delay of time be done, then in the third place I earnestly desire to put my selfe upon the issue of my foresaid proposition, which I desire *verbatum* to read unto you. but seeing this Committeee hath dealt so fairely, justly, and honourably with me, in granting me so free open, and publique hearing, as I had before you upon *Wednesday* last. and hearing me with so much patience, without interrupting of me, and seeing the calumny is so strong upon me, that I have no mind to come out of prison, I am resolved in this particular, wholly and solly to put my selfe upon *the judgment & conscience of* this Committee, & that if you amongst your selves judg it fit that I should wholly put my self upon the present judgment & concience of the final judgment and determination of the present mixed house of Commons, I do here before you all freely & voluntarily declare, I am willing to doe it, and in testimony whereof I give it you under my hand and seale, and desire you, that upon all that this day, and upon *Wednesday* last I have said

and

and declared to you, that you would immediately consule amongst you selves, and give your sense and opinions as farre in it as your present powe will inable you, and thereupon with all speed make your report unto th House, that so without any more delay, I may receive their long expecte judgement and finall determination, and so I leave you, desiring the Lord t direct you, now at last to acquit your selves towards me and the kingdom like men of honestie and honour, and so rest yours in your faithfull serving o the kingdome.

Tuesday this 26.

October. 1647. *Iohn Lilburne.*

I cannot but acquaint the Reader, that a grand objection against me, wherfore I should not have my liberty and justice, is because, if I were at liberty, it is said I would goe down to the Army, and make new hurly bulyes there; but to take of this ungrounded fallacy, and falsehood I proferred *Lievt. Gen. Cromwell face to face in the Tower*, the begining of *September* last, (that *I* was so far from intending to trouble either the Armie, Parliament, or Kingdom) that *upon that condition the house of Commons would forthwith doe me but a reasonable proportion of justice*, I would imediately *leave the Kingdome, and voluntarily ingage not to come into it againe so long as the present troubles lasted.* And for a prevention of any clashing betwixt the present Lords and Commons about me, in regard he apprehended it of extraordinary prejudice to the kingdom, *I proferred him so my Appeale might be adiudged by the House of Commons, and the kingdomes liberties secured for future against the Lords usurpations, out of that affection I beare to the peace and quietnesse of my native Country, I would willingly wave all things concerning my particular individuall selfe (in reference to the present House of Peers illegall and tyrannicall dealing with me) till the next Parliament, and if that never came, I would never seeke for reparations of them, nor from them.* And I had then divers very faire promises from him, but I never injoyed from him, the least performance in the world, although my businesse was moved in the house by Col. *Henry Martin* the next day (being *Tuesday*) after my discourse with L. G. *Cromwell*, but nothing was done in it, although L. G. *Cromwell* was then sitting in the *House*, and although it was 14. dayes before by speciall order of the House ordered to be debated that day, the next being *Tuesday*, Mr *Martin* moved, it again, and then it was put of till *Friday* after, upon which day Mr. *Martin* moved it again, but it was put of till *Tuesday*, and upon *Tuesday* it was reported to the Hous, but nothing was don then in it, saving to turne it back to the Committee, there to be delayed 15. moneth longer, *and power given them to search for presidents*, for no other end as I c

ceive, *but to see whether the Lords iniustice to me, could not easily be iustified by their former iniustice to others*, and so because to severall men *they have done iniustice, their tyrannicall, illegall dealings towards me must passe for good law*, and with much adoe that day, my wife in the afternoone got the Committee together, where Mr. *Knightly* (as I was inform'd) plaid the learned Procter for the Lords, and L. *G Cromwell* came not very short of him, for though it were to prosse for him (*especially having been such a grand Antagoniſt to the Lords*) to plead down right for the Lords and their apparent incroachments upon the Commons rights. yet (as very good intilligence tells me) he made a zealous and earnest motion, "that because the cause was so knotty and of so great "concernment, that they might get a company of Lawyers in their House to debate it *pro* and *con*; although he himselfe last yeare being one of my Committee, and often times at it when I was before them, declared himself then free from scruples, (that by law the Lords had no jurisdiction at all over me in the case in controversie) as Mr. *Henry Martin* did; but the wind being now changed, and the Lords being now become his white boyes, he must become their faithfull servant against his own interest (as a Commoner,) yea his conscience: & the interest of al the Commons of *Eng*: of which when heard, my soule was in an agony and perplexity, that I should be so dealt with by him, that originally brought me into my contest with the Lords and who but the other day had promised me face to face so faitly.

And looking upon this motion of his, as divellish and mischievous a motion as ever was made against me by any of my adversaries, (for having writ so bitterly against the Lawyers corruptions as I had done, and especially against those of the House of Commons; for pleading causes at inferior bars, before Judges of their own making, and so out of feare over awing them, and thereby as it were compelling them to doe injustice for feare of loosing their favour, who are able to turne them out of their places) I therefore judged it impossible by all the interest I had in the world, (in half seaven yeares) to get a company of *Lawyers* of the House of Commons to come to a Committee to doe me or my present cause a curtesie, and this is all the good I have received by L. G. *Cromwells*, serious promises made to me in the Tower, saving a deare and bosome friend, and creature, *stout and valiant Nathaniell Fines*, made, I will not say as the mouth of L. G *Cromwell*, as I am from good hands told, a most fiery, fierce, and bitter speech against me, and my cause in the open house of Commons. Whereupon, my pen and tongue hath been very free since in discovering L. G. *Cromwells Hocus Pocus* dealing with me and the Kingdome, who appeares to be one of the notablest Juglers, that ever I was familiar wchih in the kingdom, with freenesse giving no small distast to some of my neare friends, who comming to see me, fell upon mee soundly

ſoundly & told me I would not only undo my ſelf but all that had any relati
tion unto me, or familiarity with me, and preſſed me to doe ſome thing tha
was reaſonable and moderate to get my liberty, aſſuring me that if *I* woul
doe ſo and ſo, he knew I might have my liberty &c. whereupon I drew hin
up theſe following lines which pleaſed him very well.

'For my perticular in *E*ngland were *I* at liberty, *I* could not live to follo
'any imployment, except Oathes or Tithes were aboliſhed, for either *I* muſ
'follow my traid which heare I cannot doe without taking oathes, which
'cannot take, or elſe I muſt live in the Country, and there I neither can no
'would pay Tythes, in which regard if *I* were at liberty *I* muſt of neceſſity g
'beyond ſeas, and doe hereby promiſe that upon that condition the houſ
'of Commons will paſſe their judgement upon my proteſt againſt the Lord
'and my Appeale to them for juſtice and protection, and evacuate and anni
'hilate my ſentence, and immediatly helpe me to the 2000 l. the Lords ad
judged me from my Starchamber Judges, and give me but in ready mone
'one halfe of my Arrers for the whole, being about 6. or 700. l. audited be
'fore a Committee of their own houſe, and I will imediately lay out my mo
ney in cloath or other commodities, and if I can paſſe with them, I will forth
with leave the Kingdome, to which I will promiſe without licence I will no
returne for the ſpace of 12. moneths after the receipt of the money, and ſ
ſhall leave this Parliament to the management of their own affairs among
themſelves, witneſſe my hand and ſeale this ſixt of *October*, 1647.

John Lilburne.

But in ſtead of obtaining my liberty, &c. hereby, as I was confident
made believe I ſhould, this my own moderate & faire proffer ſerved my
verſaries, to no other end but to upbraid and calumniate me behind my
though made by their own procurement, and to render me contemptib
man that neither cared for England nor the liberties thereof, but me
only ſought for my money and my own ends, whoſe jugling dealing wit
I ſhall more largely in ſome marginall notes, &c. diſcover, when I print m
letter to ſuttle Mr. *Allen* the Agitator, which by Gods aſſiſtance ſhall ſpe
dily follow, and then my *A*ppeale next to that, wherein I ſhall cry out alou
murther, oppreſſion, and cruelry, to the whole kingdom, and with ſtron
cryes preſſe all that have honeſt, engliſh hearts, vigarouſly to preſſe the hou
of Commons to judge my Appeale, which I judge is now hindred by th
grandees of the Army, who I may ſay are body and ſoule the Lords creature
and as great lovers of tyranny, oppreſſion, iujuſtice, and diſſimulation as the
and ſo I reſt, *John Lilburn that neither loves baſeneſſe, nor feares greatnes.*

FINIS.